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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,815	12/05/2003	Marcio Gerep	030365	1935

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BUCHANAN INGERSOLL, P.C.
ONE OXFORD CENTRE, 301 GRANT STREET
20TH FLOOR
PITTSBURGH, PA 15219

EXAMINER

RAEVIS, ROBERT R

ART UNIT

PAPER NUMBER

2856

DATE MAILED: 08/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/729,815	GEREP, MARCIO	
	Examiner	Art Unit	
	Robert R. Raevis	2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>12-5-03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claims 6 and 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claims 6 and 27, what does "annular ring" refer to in the written specification/drawings? Does it somehow refer to the collar 5? (If so, is the collar 5 really annular with respect to the stud 131 in Figure 3, or is the stud 131/collar 5 an integral piece?)

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6,8-14,16-18,21-27,29-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Gerep.

Gerep teaches (Figure 2; col. 2, lines 10-18; ABSTRACT, last 4 lines) every limitation claimed. In addition, please note that the studs 44 in Figure 2 include a first set (top two rows) that are separated by a first selected distance, the two rows defining a first region; and second set (bottom two rows) that are separated by a second selected distance, the rows defining a second region; both regions of which are separated by a distance (or "line", if you will) that has a distance (or "width", if you will) that is greater from the first and second distances, *as evidenced by the more than 3 rows of studs that separate the first and second regions.*

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As to claims 6 and 27, note the seemingly annular ring⁵⁴ around core 52 in Figure 3.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 15, 19, 20, 28, 34-~~36~~ are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerep.

Comments that exist above similarly apply here.

As to claims 7, 20, 28, Gerep's dimensions (on col. 2, lines 10-20) generally suggest a 0.25-inch distance between rows of studs. In the alternative, Applicant describes a "one-fourth inch in diameter" (p. 3, line 10 from bottom) probe, suggestive of such spacing to allow for measuring.

As to claim 15, Applicant describes (pages 3-4) of his specification that it is "standard practice" to measure thickness of tubes with a UT probe. In addition, it is known that some UT probes have a diameter greater than the distance existing between the rows suggested by Gerep.

As to claim 34, Applicant describes (pages 3-4) of his specification that it is "standard practice" to measure thickness of tubes with a UT probe, and refer to taking "Repeated test measurements" (col. 4, line 4) "to calculate a rate of corrosion" (col. 4, lines 3-4). Thus, it would have been obvious to make those measurements on Gerep's tubes to predict when failure may occur.

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As to claim 35, it would have been obvious to subsequently make measurements to calculate a rate for a second time to allow for a more accurate prediction of when failure may occur, as conditions for corrosion may have varied from the previous determination of rate.

As to claim 36, it is known to construct corrosion profiles to permit operators to comprehend where corrosion is at its greatest in a boiler assembly, allowing for a determination of a plan to address corrosion related issues.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert R. Raevis whose telephone number is 571-272-2204. The examiner can normally be reached on Monday to Friday from 6:30am to 4:00pm. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



RAEVIS